

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket No. 1798
Gwendolyn D. Atkins)	
Correctional Sgt.)	
Star #1110)	

DECISION

This matter coming on to be heard pursuant to the Order of Remand for additional findings of facts supporting the decision of the Cook County Sheriff's Merit Board to impose a 60-day suspension on Respondent Correctional Sgt. Gwendolyn D. Atkins. The following additional findings are made by the Cook County Sheriff's Merit Board:

The Cook County Sheriff's Merit Board issued its original decision this matter on September 15, 2016 imposing a 60 day suspension on the Respondent Gwendolyn D. Atkins, Correctional Sgt., and setting forth in detail the rules and regulations violations that were charged in the complaint, as well as a detailed exposition of the evidence through witness testimony and documents admitted into evidence.

The Board found that Sgt. Gwendolyn Atkinson violated Sheriff's orders 11.2.1.0, 11.2.20 General Orders 24.9.1.0 and 9.21 and Article X Paragraph B of the Merit Board Rules.

Although the Sheriff in the complaint sought the imposition of a 120 day suspension, the Board finds that the following facts, in addition to the factual findings contained in the original decision, support a 60 day suspension:

The Respondent has been employed by the Cook County Sheriff since 1995, and became a Sgt. in May 2008. The Respondent has a good disciplinary history, aside from this incident, over the entirety of that time.

Respondent testified un rebutted that she informed Lieutenants [REDACTED] and [REDACTED] that there was use of force regarding Correctional Ofc. [REDACTED] and inmate [REDACTED], where she had to pull [REDACTED] away. Both Lieutenants left to review the video and came back to tell her that it was a good use of force. Because her superiors told her it was a good use of force, she did not file a complaint register. The Respondent relied on the review of the incident by her superior officers in deciding to handle the situation the way she did.

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Officer Gwendolyn D. Atkins
STAR # 1798

Respondent was not allowed at the time of making her report to review video of the incident. In retrospect if she had viewed the video she would have reacted differently.

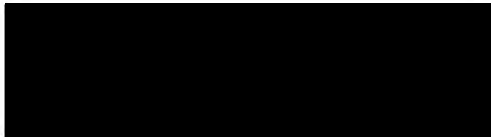
Order

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence in the record, the Board finds, by a preponderance of the evidence, that Sgt. Gwendolyn Atkinson violated Sheriff's orders 11.2.1.0, 11.2 .20 General Orders 24.9.1.0 and 9.21 and Article X Paragraph B of the Merit Board Rules, and that a 60 day suspension is warranted, effective December 23, 2014.

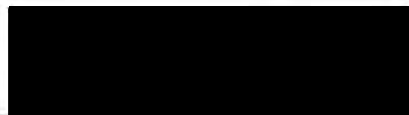
Gwendolyn Atkins
Correctional Officer
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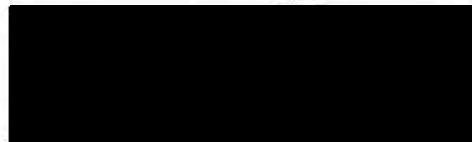
James P. Nally, Chairman



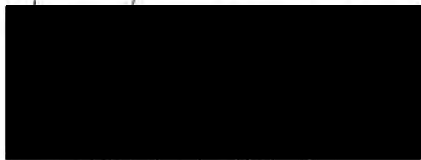
Byron Brazier, Vice-Chairman



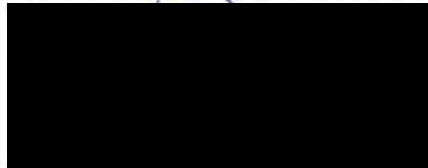
John D'Alcandro, Secretary



Kim R. Widup, Board Member



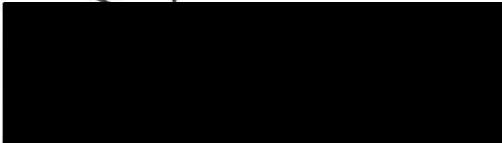
Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick Brady, Board Member



Gray Mateo - Harris, Board Member

Date - December 26, 2018

SHERIFF OF COOK COUNTY,)
)
 vs.)
) Docket # 1798
 GWENDOLYN D. ATKINS,)
 Correctional Sergeant,)
 Employee # [REDACTED])
 Star #1110.)

THIS MATTER COMING ON to be heard pursuant to notice before Jennifer E. Bae, a Board Member, and the Cook County Sheriff's Merit Board finds as follows:

1. GWENDOLYN D. ATKINS (herein after "Respondent") holds a position as a Correctional Sergeant which involves duties and responsibilities to the public.
2. Each member of the Cook County Sheriff's Merit Board (hereinafter "Board") has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term.
3. The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes.
4. The Respondent was personally served with a copy of the Complaint and Notice of Hearing and appeared before the Board to contest the charges contained in the complaint.
5. The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting documents.

By complaint dated December 23, 2014, Sheriff Thomas J. Dart, sought a suspension for one hundred twenty (120) days. The complaint alleges that Respondent violated the Rules and Regulations and General Orders of the Cook County Department of Corrections and Rules and Regulations of the Cook County Merit Board when she failed to document, submit an Incident Report, and failed to recommend disciplinary action or submit a Complaint Register and/or notify a commanding supervisor that CO [REDACTED] struck detainee [REDACTED] with a closed fist several times to the face after witnessing the excessive use of force. The complaint specifically alleged that Respondent violated the following:

SHERIFF'S ORDER 11.2.1.0 (effective September 19, 2011)
RESPONSE TO RESISTANCE/USE OF FORCE POLICY, in its entirety, including but not limited to, the following subparts:

II. POLICY

Officers shall use an amount of force reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect the officer(s) or others from injury, as specified by federal/Illinois statutes and case law. The CCSO utilizes the Use of Force Model (2010) – John C. Desmedt and Protective Safety Systems Incorporated to provide guidance on the appropriate amount of force to be used to effect a lawful purpose and to articulate a detailed report on the officer's actions. The Use of Force model employs the progressive and reasonable escalation and de-escalation of officer applied force in proportional response to the actions and level of resistance offered by a subject. Every use of force greater than social control, officer presence or verbal control must be reported as outlined in this directive. Officers shall not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

V. DEFINITIONS

- E. Excessive force – The application of an unreasonable amount of force in a given incident based on the totality of the circumstances.

VIII. PROCEDURES

- C. Intervention during excessive force incidents. If an officer knows that another officer is using excessive force against a subject, the officer must take appropriate action. The action required by the officer shall depend upon the circumstances of the incident. However, appropriate action may include, but are not limited to, verbal or physical intervention, immediate notification to a supervisor, or a direct order by a supervisor to cease the use of excessive force.

- D. Reporting alleged or actual excessive force incidents.

Any employee:

1. With knowledge of the suspected and/or actual excessive use of force or knowledge of an excessive use of force allegation shall immediately verbally report this information to his/her supervisor. The immediate supervisor shall report the verbal notification to the watch commander. The watch commander may require the employee to complete and submit a To/From Memorandum.

2. Witnessing a use of force incident shall be required to complete and submit to the responding supervisor a Witness Statement as part of the Data Collection Form completed by the watch commander prior to the end of the shift.

XIII. APPLICABILITY

- A. By order of the Sheriff of Cook County, this Sheriff's Order applies to all CCSO officers and must be strictly observed.
- B. Any conflicts with previous orders, policies or procedures shall be resolved in favor of this order.
- C. All CCSO officers are required to familiarize themselves with the contents of this order and to adhere to the policy established herein.

GENERAL ORDER 24.9.1.0 (effective July 11, 2011)

REPORTING INCIDENTS, in its entirety, including but not limited to, the following subparts:

II. POLICY

It is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility, i.e., sanitation, plumbing, electrical, ventilation, or any other situation that creates a dangerous workplace, are reported and documented in a timely and professional manner.

Employees shall immediately report to their supervisor any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person.

Report shall be made verbally and in writing as directed by this order.

VII. PROCEDURES

A. Notification

1. All reportable incidents occurring within CCDOC involving staff, inmates, or visitors are required to be verbally reported and documented on an Incident Report by staff via the chain of command.
2. Response to resistance/use of force incidents by staff shall be reported in accordance with the current CCSO Response to Resistance/Use of Force Policy.

B. Incident Report Requirements

- 1.
2. CCDOC staff shall completely and accurately document and incident or situation that he or she observes or that is reported to him/her.
3. All CCDOC staff shall promptly prepare the Incident Report and forward the report to the supervisor.
- 4.
- 5.
6. Incident Report shall be prepared immediately after an incident in order to be as accurate as possible; however, they shall be completed, submitted and reviewed by a supervisor prior to being relieved from duty.

- C. Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges.

F. General Reporting Guidelines

2. Complete and accurate documentation of events and incidents within CCDOC facilities and other sites are essential. Written reports and reports in IMACS serve to keep staff informed of developments and problem areas within the facility. Reports are also instrumental in the planning and implementation of Sheriff's Office policies and procedures.

VIII. APPLICABILITY

This General Order is applicable to all employees of the CCDOC. All employees shall familiarize themselves with the contents of this order. All supervisors will review the contents of this order with all employees under their supervision as appropriate, and ensure the provisions as outlined are strictly adhered to. This order is for strict compliance.

SHERIFF'S ORDER 11.2.20.0 (effective January 25, 2013)

RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

II. POLICY

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of service.

III. APPLICABILITY

This order is applicable to all employees of the CCSO and is for strict compliance. Any violations of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

A. Compliance with Laws, Ordinances, and Regulations

2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.

B. Conduct on and off duty.

CCSO employees shall:

2. Conduct themselves on and off-duty in such a manner to reflect favorably on the CCSO. Employees, whether on or off-duty, will not engage in conduct which discredits the integrity of the CCSO, its employees, the employee him/herself, or which impairs the operations of the CCSO. Such actions shall constitute conduct unbecoming of an officer or employee of the CCSO.

VII. ADDITIONAL RULES AND REGULATIONS FOR SUPERVIORS

CCSO supervisors shall:

A. Be responsible for subordinates' adherence to CCSO rules, regulations, policies, orders, directives and procedures.

- B. Be responsible and accountable for the maintenance of discipline and provide leadership, supervision and an example to ensure the efficiency, effectiveness, and performance of CCSO operations.
- C. Be responsible for the job performance of all subordinates placed under them.
- D. Remain answerable and accountable for all job-related failures on the part of their subordinates and subsequent failure to take the appropriate action to correct the deficiency.

GENERAL ORDER 9.21

RESPONSIBILITIES OF SUPERVISORS, in entirety, including but not limited to, the following subparts:

I. POLICY

It shall be the policy of the Cook County Department of Corrections (CCDOC) that Supervisory personnel be provided standards to perform their official duties. Supervisors are responsible of ensuring compliance with CCDOC policy and procedures, as well as professional and ethical standards.

Section #3 – Responsibilities of Sergeants

I. PROCEDURE

A. Personnel Management Responsibilities of Sergeants include:

6. When appropriate ensure they provide written documentation on any incident.

B.

C. Disciplinary Responsibilities of Sergeants include:

1. Prepare disciplinary reports on subordinates under their command found in violation of the Departmental Policies and Procedures.
2. Recommend disciplinary action for any subordinate found in violation of the Departmental Policy and Procedures in accordance with General Order 4.2 (Disciplinary Action – Summary Punishment) and General Order 4.2.1 (Disciplinary Action – Major Cause).

D. Administrative Responsibilities of Sergeants include:

- 1.
2. Collect, review and examine reports submitted by subordinates under their supervision to ensure reports are legible and contain all pertinent information.
3. Ensure all required notifications have been made pertaining to any incidents having occurred during their tour of duty.

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B

No Police Officer of the Cook County Sheriff's Police Department, nor any Correctional Officer of the Cook County Department of Corrections, nor any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

3. violate any of the general orders, special orders, directives or rules and regulations of the CCSO.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what if any discipline is appropriate if a violation occurred.

Evidence Presented:

A hearing was conducted on December 1, 2015 and February 2, 2016 at the Cook County Administration Building, 69 W. Washington Street, Room 1100, Chicago, Illinois. Present were Assistant State's Attorney [REDACTED] and Assistant General Counsel [REDACTED] on behalf of the Cook County Sheriff and Attorney [REDACTED] on behalf of the Respondent.

The following exhibits were admitted into evidence:

Sheriff's Exhibits:

1. Statement made by Sgt. Gwendolyn Atkins to OPR dated 02-26-2014
2. CCSO Response to Resistance/Use of Force Report written by Sgt. Gwendolyn Atkins dated 08-07-2013
3. CCSO Officer Battery Report written by Sgt. Gwendolyn Atkins dated 08-07-2013
4. CCSO Response to Resistance/Use of Force Report written by CO [REDACTED] dated 08-07-2013
5. CCSO Officer Battery Report written by CO [REDACTED] dated 08-07-2013
6. CCSO Inmate Disciplinary Report written by CO [REDACTED] dated 08-07-2013
7. CCSO Incident Report CO [REDACTED] dated 08-07-2013
8. Offense/Incident Report written by Inv. [REDACTED] dated 08-08-2013

9. CCSO Response to Resistance/Use of Force Report Supervisory Review Report signed by Sgt. Gwendolyn Atkins, Lt. [REDACTED] and [REDACTED]
10. Sheriff's Order Response to Resistance/Use of Force Policy 11.2.1.0
11. Sheriff's Order Rules of Conduct 11.2.20.0
12. Sheriff's General Order 24.9.1.0
13. CCDOC General Order 9.21
14. CCSO Merit Board Article X
15. Video of this incident

Respondent's Exhibit:

1. Summary Report prepared by OPR Investigator [REDACTED] dated 08-16-2014
2. OPR Command Channel Review
3. CCSO Response to Resistance/Use of Force written by Lt. [REDACTED] dated 08-10-2013
4. Memorandum from [REDACTED] to [REDACTED] and [REDACTED] dated 05-15-2014

Joint Exhibit:

1. Testimony of [REDACTED] dated 9-24-2015
2. Testimony of [REDACTED] dated 9-24-2015
3. Testimony of [REDACTED] dated 9-24-2015
4. Testimony of [REDACTED] dated 9-24-2015
5. Testimony of [REDACTED] dated 10-27-2015
6. Testimony of [REDACTED] dated 10-27-2015
7. Testimony of Gwendolyn Atkins dated 9-24-2015

The following witnesses testified for the Sheriff:

[REDACTED]

On direct examination, [REDACTED] (herein after "[REDACTED]") testified that he was the Senior Investigator for the Cook County Sheriff's Office OPR, Office of Professional Review. He was assigned to investigate an allegation of excessive force concerning Correctional Officers [REDACTED] (herein after "[REDACTED]") and [REDACTED] (herein after "[REDACTED]") as well as Respondent. He had investigated at least 100 cases involving excessive force. [REDACTED] said he was the only investigator assigned to this matter. He first gathered all reports, obtained a copy of the video, and interviewed all officers including inmate [REDACTED] (herein after "[REDACTED]").

[REDACTED] interviewed Respondent at the OPR office on February 26, 2014 and reduced it to a statement (Sheriff's Exhibit 1) after she was given her administrative proceeding rights and notification of allegation. Respondent was accompanied by a union representative. [REDACTED] said Respondent was permitted to review her statement and make any changes prior to signing it. [REDACTED] testified that he asked Respondent what had happened. Respondent said that she was notified by [REDACTED] that [REDACTED] had spit on his face; she told [REDACTED] to write up a report; while [REDACTED] was writing his report, Respondent was notified that [REDACTED] was flooding his cell; she entered the cell along with [REDACTED] and Correctional Officer [REDACTED].

█████ (herein after "█████" and told █████ to stop; she then told █████ and █████ to take control of █████ two additional female correctional officers entered the area; and █████ was able to get █████ under control and handcuff him. █████ said that Respondent did not tell him about █████ striking █████ He then asked Respondent whether she had observed █████ punching █████ Respondent told █████ that she did observe this and that she thought it was a proper response to the level of force needed to put █████ under control.

█████ was shown Sheriff's Exhibit 15 which was the video of the incident. The video was played. In the video, after █████ punched █████ several times, Respondent attempted to pull █████ away from █████

At the close of the investigation, █████ made the conclusion that █████ used excessive force against █████ because when the level of threat had diminished to a passive resister, █████ continued to punch █████ █████ also made the finding that Respondent failed to take supervisory action and failed to report the excessive force. █████ did not make any recommendation as to the discipline. He said that any and all recommendation for discipline was made by the command channel.

On cross-examination, █████ testified that he did not know whether Respondent was permitted to review Sheriff's Exhibits 2, 3 and 4 prior to her interview or that she was allowed to view the video of the incident. █████ agreed that █████ had claimed that he suffered injuries to his right side of the body however the video showed █████ striking left side of █████ body. With regards to Sheriff's Exhibit 15, █████ said he would characterize █████ as an assailant at the beginning when he spit, flooded his cell, and took a fighting stance. █████ agreed that in the use of force model, if a detainee was aggressively offensive without weapons, the staff can use impact weapons such as taser, chemical agents, canines and closed hand strikes. █████ said he made a determination by watching the video that at some point, █████ head was turned and was not in a position to spit at the officers. █████ said he had prepared Respondent's Exhibit 1 which contained synopsis of the facts and recommendation that █████ be separated, that Respondent be suspended for 120 days, and that █████ be suspended for 90 days. █████ said he did not make this recommendation but that he completed this document after it went through a review by the chain of command. █████ said the initial recommendation for Respondent was 30 days suspension which was made some time in April 2014. On September 23, 2014, the recommendation was changed by █████ to 120 days.

█████ was shown Respondent's Exhibit 3 and Sheriff's Exhibit 9. From the documents, it showed that on August 7, 2013, █████ (herein after "█████" had approved reports filed by █████ and Respondent. Sometime after, Superintendent █████ (herein after "█████") and █████ looked at the video for the second time and was referred to OPR for review. █████ did not interview or ask █████ or █████ why there was a change in finding. █████ said he had seen Respondent's Exhibit 4 which was a memo from █████ (Special Counsel of the Sheriff's Office) to █████ (Executive Director of OPR) and █████ (Assistant Executive Director of OPR). In this memo, █████ sought to increase discipline for Respondent. █████ believed that █████ made this recommendation as the agent of the Undersheriff.

During the interview, █████ said Respondent did not ask to view the video tape of the incident. █████ made the determination by viewing the video that at some point, █████ was no longer an active assailant when █████ continued to strike him. █████ said he did not ask Respondent whether there came a point when █████ was no longer an active assailant. █████ said the officers were required to submit reports when they see wrongdoings. He was not aware of an

incident where an officer sought an advice from higher-up staff to determine if what the officer saw was an excessive force. [REDACTED] said he had many cases where he determined that there was no excessive force used. [REDACTED] said that he rarely had videos to allegations of excessive force until about 2 years ago. He said if the officer did not believe that the incident involved excessive force, the officer was not required to file a report. He did not know if the officers were allowed to view the video of the incident prior to filing their reports.

On re-direct examination, [REDACTED] testified that Sheriff's Exhibit 1 did say that Respondent acknowledged that she was informed of all her rights and waived counsel. Respondent also acknowledged that the statement was true and accurate by placing her signature. [REDACTED] said when [REDACTED] was striking [REDACTED] he categorized [REDACTED] as a resister. He said he did not make any discipline recommendation.

Joint Exhibit 1 – Testimony during CO [REDACTED] case on September 24, 2015:

On direct examination, [REDACTED] testified that she was employed by the Cook County Sheriff's Office as a correctional officer with star number 14828. She was assigned to receiving and was so on August 7, 2013. [REDACTED] is her [REDACTED] [REDACTED] said she entered the cell after [REDACTED] and observed [REDACTED] behind a wall with wet floor. She observed that the officers were trying to put handcuffs on [REDACTED]

The video was played. [REDACTED] said she did reach for [REDACTED] arm but did not remember why she had done so. She was trying to hold [REDACTED] head so that she could get control of him. She said she had pushed [REDACTED] away so that [REDACTED] could not spit at him. She claimed that [REDACTED] attempted to head butt and spit at her. She remembered [REDACTED] hocking approximately 3 times. She said she saw [REDACTED] swinging but did not know if [REDACTED] was struck. She could not remember because the floor was wet and there were lots of stuff going on. She did not know if [REDACTED] swinging at [REDACTED] face was helping the situation or not.

On cross-examination, [REDACTED] testified that when she entered the bullpen, there was standing water with water flowing from a toilet without a drain. She said [REDACTED] was given verbal commands during the altercation but did not obey them. She said it was [REDACTED] that took [REDACTED] to the ground. Prior to being taken down, [REDACTED] was not restrained or under control. [REDACTED] was always to [REDACTED] right side of the body. [REDACTED] claimed that she attempted to gain control of [REDACTED] head by pushing it toward the wall.

[REDACTED] was trained in the use of force at the Cook County Sheriff's Training Academy. There she learned that the Sheriff had adopted what's known as the use of force continuum model. She did not observe [REDACTED] use any force inconsistent with this model. She did not see any injuries on [REDACTED]. She did not hear [REDACTED] cry out in pain. She said the situation was tense and she had a concern for her safety and safety of her fellow officers because of spitting. She said [REDACTED] spit at her when [REDACTED] was walking behind her.

Joint Exhibit 2 – Testimony during CO [REDACTED] case on September 24, 2015:

On direct examination, [REDACTED] (herein after "[REDACTED]") testified that she was employed by the CCSO as a correctional officer. She had been there for approximately 20 years and attended training at Triton College and Sheriff's Training Academy. She was trained in the

Sheriff's use of force policy. On August 7, 2013, she was assigned to Receiving and female discharges. She explained that she was sitting across from a bullpen when she saw water flowing out of it. She entered the room where the bull pen was located and learned that an inmate had flooded the bullpen. There were [REDACTED] and [REDACTED] in the bullpen. She was present when [REDACTED] took the inmate to the ground. She said she went in to assist. She observed that the inmate was combative and refusing to be handcuffed. She did not observe [REDACTED] use force against [REDACTED] in violation of the Sheriff's Use of Force Policy.

On cross-examination, [REDACTED] testified that she did not see [REDACTED] use any force. She was standing behind [REDACTED] and did not see [REDACTED] swing or punch the inmate. [REDACTED] said that since she did not see [REDACTED] use any force, [REDACTED] could not violate any policy for using excessive force.

Joint Exhibit 3 – Testimony during CO [REDACTED] case on September 24, 2015:

On direct examination, [REDACTED] testified that he was employed by the Cook County Sheriff's Office as a correctional officer for 9 years. Prior to becoming a correctional officer, he attended the Sheriff's Academy that lasted for 16 weeks. On August 7, 2013, he was on duty from 2 pm to 10 pm. His assignment was male holding in Receiving. [REDACTED] said [REDACTED] came in as a transfer so he placed him in a holding cell for the new division for a pick up. He first encountered [REDACTED] as he was at the holding desk in the basement of Receiving when [REDACTED] was brought over for a transfer. [REDACTED] was first placed in the hallway but became agitated and started throwing his stuff around. [REDACTED] was told to stop. [REDACTED] and [REDACTED] tried to gain control and placed handcuffs. [REDACTED] started to pull away. [REDACTED] did not see [REDACTED] strike [REDACTED]. [REDACTED] was placed in a cell. [REDACTED] started to spit at them. [REDACTED] then received a call from an officer in the controls who said that [REDACTED] was flooding the cell. [REDACTED] went back to the cell to retrieve the item used by [REDACTED] to flood the cell. He observed water all over the floor and gave [REDACTED] a verbal command to turn around and be placed in cuffs to be moved to a different cell. [REDACTED] did not comply. When [REDACTED] approached [REDACTED] put his back to the wall and resisted. [REDACTED] had [REDACTED] in one arm as [REDACTED] struggled. [REDACTED] was eventually taken down to the floor by [REDACTED] and placed in handcuffs. [REDACTED] then walked toward the toilet to stop from flooding.

Immediately after the incident, [REDACTED] prepared an incident report and a use of force report. [REDACTED] said that he could have asked to see the video prior to writing up his reports but he did not do so. He prepared his reports from his recollection of the events. He believed that [REDACTED] was a threat to him and other officers. He had concern for the safety of himself and his fellow officers. He observed [REDACTED] spitting at the direction of all officers. [REDACTED] described [REDACTED] to be a very strong young man. From the video, [REDACTED] said that you could not determine how rigid [REDACTED] body was or the degree of force [REDACTED] exerted against him.

On cross-examination, [REDACTED] testified that he did not observe [REDACTED] throw any punches at [REDACTED] because he was focused on maintaining control of [REDACTED]. [REDACTED] said that he alone took control and took [REDACTED] down to the floor. [REDACTED] was concerned for his own safety but he did not throw any punches. When [REDACTED] entered the cell, the water had not leaked out into the hallway. He gave [REDACTED] verbal commands but he did not comply. When he walked into the cell, [REDACTED] knew that [REDACTED] was not going to comply with his commands; that [REDACTED] was going to resist him; that [REDACTED] was going to be combative with him; and that he would probably have to

use force to get [REDACTED] in handcuffs. [REDACTED] believed that [REDACTED] spit more than once but not more than five times while in the bull pen.

Joint Exhibit 4 – Testimony during CO [REDACTED] case on September 24, 2015:

[REDACTED] testified that he had been working for the Cook County Sheriff's Office as a correctional officer for 22 years. He attended Sheriff's training academy for 16 weeks and received an assignment at the jail. He was trained to use the John C. Desmedt and Protective Safety Systems Use of Force Model. After the academy, he received additional training in the Sheriff's Office on the use of force. On August 7, 2013, he worked from 2 pm to 10 pm in the male holding, Receiving. [REDACTED] said he did not know [REDACTED] prior to this incident. His first encounter with [REDACTED] was in the bullpen (aka holding cell) when [REDACTED] requested protective custody. [REDACTED] was being transferred and bullpen was where he was being held prior to the transfer. [REDACTED] said that inmates were not allowed to bring personal property into the bullpen.

A video was played that showed the hallway (marked as Sheriff's Exhibit 1 in the CCSO vs. [REDACTED]). [REDACTED] explained that he was trying to get [REDACTED] to leave his property outside the bullpen since inmates were not allowed to take their property into the bullpen. [REDACTED] began to go through his belonging. He told [REDACTED] to put his stuff down. [REDACTED] did not comply and began to put something in his side. He told [REDACTED] to drop it. [REDACTED] did not comply. He placed his right hand on [REDACTED] shoulder and with his left hand tried to grab the item out of [REDACTED] side. [REDACTED] forcibly pulled the item and [REDACTED] became agitated. [REDACTED] started to swear at [REDACTED]. At that point, [REDACTED] was on [REDACTED] left side and [REDACTED] was on the right trying to get [REDACTED] close to the door of a bullpen as [REDACTED] resisted. [REDACTED] struck [REDACTED] on the side of the face to get [REDACTED] to cooperate with them. At some point, [REDACTED] opened the door of the bullpen and [REDACTED] pushed [REDACTED] towards the bullpen. As [REDACTED] was exiting the bullpen, [REDACTED] spit at his face. [REDACTED] arm came out of the bullpen's bar and the door did not close all the way. The door was finally released and they were able to close it. [REDACTED] began to search [REDACTED] property to see if there was any kind of contraband. [REDACTED] took his shirt off and took a fighting stance with his arms up. No further physical confrontation took place and [REDACTED] left. As [REDACTED] began writing up his report regarding the incident in the hallway, he received a call from the master control that [REDACTED] was flooding the bullpen. [REDACTED] walked into the bullpen in front of [REDACTED]. He observed [REDACTED] standing by the toilet. [REDACTED] told [REDACTED] to step away from the toilet and be prepared to get cuffed. [REDACTED] squared up against a wall and [REDACTED] tried to get control of [REDACTED] to place handcuffs on him. [REDACTED] struck [REDACTED] on the side to gain control of [REDACTED] left arm. [REDACTED] then put his left arm and back-elbowed [REDACTED] face. [REDACTED] then struck [REDACTED] side of his face. He did not know if he had landed any strikes because [REDACTED] was moving around struggling with both officers. [REDACTED] said [REDACTED] then spit at his face. He continued to strike [REDACTED] to get his arm to be cuffed. [REDACTED] came into the video while [REDACTED] tried to head-butt and spit toward her. [REDACTED] struck [REDACTED] again. He claimed that he was trying to take away the threat of spitting and not to punish or injure him. The purpose of striking was to gain control of [REDACTED]. [REDACTED] was taught to eliminate the weapon and in this case, spitting was the weapon. Respondent then told [REDACTED] to back down so that she could assume control of the situation. As [REDACTED] was walking away, he

saw [REDACTED] standing about 5 feet away spitting at [REDACTED]. [REDACTED] stepped back in because [REDACTED] was still being aggressive and spitting. Once [REDACTED] was under control by [REDACTED], [REDACTED] ceased to use force against [REDACTED].

After this incident, [REDACTED] returned to complete his reports. He did not fill out a report for the incident that occurred in the hallway. He said he wrote the reports based on his perception and did not consciously omit any information. A report titled "Response to Resistance/Use of Force Form" was given to him by his supervisor to fill out immediately after the incident. He said he wrote down "closed hand strike" under Assailant meaning the he delivered a punch or strike to [REDACTED]. He did not remember the number of times he struck [REDACTED]. Prior to writing this report, [REDACTED] was not allowed to view the video of the incident or speak to other officers. He wrote the report based on how he was trained in the academy. [REDACTED] was told that he was being sent to remedial education taught by Sergeant [REDACTED] in lieu of any other discipline for this incident.

On cross-examination, [REDACTED] testified that in August of 2013, he was aware that under the Sheriff's general order, he could not use excessive force nor use force as punishment or retaliation. On August 7, 2013, he was involved in an incident with [REDACTED] who was combative and aggressive throughout both incidents. He said he had never been spit on prior to this incident and that spitting was rare occurrences. Inmates have thrown rotten milk and food at him before. The incident with [REDACTED] occurred in the hallway prior to [REDACTED] being placed in a bullpen. [REDACTED] did not listen to [REDACTED] when he commanded him to drop his property. [REDACTED] dropped some of his property to the ground but not all. At some point, [REDACTED] took the item from [REDACTED] forcefully. He claimed that [REDACTED] was agitated and combative prior to his involvement. When [REDACTED] refused to be placed inside a bullpen, he and [REDACTED] grabbed and slammed him against the door. They then forced [REDACTED] to get him to the door and [REDACTED] gave [REDACTED] a shock to his head to gain control. Once [REDACTED] was placed in a cell, [REDACTED] spit and threw something at [REDACTED] as [REDACTED] was making verbal threats. [REDACTED] then took a fighting stance which made him a mid-level assailant. He believed [REDACTED] was still a risk since the door was unsecured at that time. He told [REDACTED] to back up in an aggressive manner and walked out of the cell securing it. [REDACTED] did not know that he would have to use force to get [REDACTED] under control during the second encounter. When he walked up to [REDACTED], [REDACTED] punched [REDACTED] in the side to gain control of his left arm. [REDACTED] started to struggle with [REDACTED] and he pushed [REDACTED] arm down as he threw another strike on the body. [REDACTED] spit at [REDACTED] at 2:56:08 and attempted to hit him with his elbow. [REDACTED] then struck [REDACTED] in the face to stop the battery (spitting) from happening. He did not recall if he was trained to strike detainees in their face when detainees spit at him. The video showed [REDACTED] striking [REDACTED] four times. At 2:56:14, [REDACTED] struck [REDACTED] in the face but he claimed that the strikes did not land on [REDACTED]. [REDACTED] claimed that [REDACTED] did not push him away but that she attempted to push [REDACTED] head toward the wall. [REDACTED] agreed that he struck [REDACTED] 5 times near his face but was not successful in getting [REDACTED] under control. At 2:56:18, [REDACTED] struck [REDACTED] again when Respondent pulled him away. [REDACTED] explained that Respondent was attempting to get him out of the way because [REDACTED] was focused on him when spitting. [REDACTED] tried to walk back toward [REDACTED] when [REDACTED] got in between. He claimed that he did not touch [REDACTED] because he had backed off. At 2:56:50, [REDACTED] walked back toward [REDACTED] because [REDACTED] was still being aggressive and spitting but was stopped by Respondent. Respondent grabbed [REDACTED] by his shirt and pulled him away saying that he needed to leave. At 2:57, [REDACTED] took [REDACTED] down to the ground without [REDACTED].

assistance. At 2:57:03, [REDACTED] came back into the cell to make sure that [REDACTED] was secure. He claimed that he was not "pushed" out by another officer but that he walked out on his own. He would not agree that his punches and strikes to [REDACTED] made [REDACTED] more agitated. He did not see any other officers throwing strikes or punches at [REDACTED]. Respondent and [REDACTED] were both spit on by [REDACTED] but [REDACTED] did not throw any punches or strikes. He agreed that it was important to document what force was used and to be accurate when reporting the incident to the best of his ability.

Sheriff's Exhibit 2 was a copy of the use of force report completed by [REDACTED]. He said that he checked the box for "closed hand strike/punch" and that [REDACTED] was either a low-level assailant or a mid-level assailant but never a high-level assailant. On August 7, 2013, [REDACTED] weighed 300 pounds and 6 feet tall. He believed [REDACTED] was around 6 feet 1 or 2 inches tall. He did not know how much [REDACTED] weighed. [REDACTED] said that the second page of the Sheriff's Exhibit 2 was where he summarized what he did. He did this without the access to the surveillance video. He did not request to see the video because he did not know if he could ask to see it. He did not request to speak to other officers prior to filling out Sheriff's Exhibit 2. He only listed striking [REDACTED] once in the side of the stomach because it happened in the heat of the moment and his memory wasn't clear. He did not remember if the general orders required him to write the use of force report right away but that his supervisors wanted him to do so. Looking at the narrative portion on the second page, [REDACTED] did not write about the incident that occurred in the hallway. He claimed that he filled out 4 or 5 different reports and they were almost verbatim.

Sheriff's Exhibit 6 was a copy of the statement [REDACTED] made to OPR in February of 2014. In the statement he indicated that while he was in process of placing [REDACTED] in the bullpen, [REDACTED] turned around and spit in his face. He did not tell OPR that he forcibly put [REDACTED] against the door and then struck him in the head. He told OPR basically same as he reported in his use of force report that [REDACTED] was combative, spitting and that he may have punched [REDACTED] once or twice. He did not tell OPR that he had punched [REDACTED] in the head at any point or that he was not the one that brought [REDACTED] to the ground to handcuff him. [REDACTED] claimed that the remedial training by Sergeant [REDACTED] in December of 2013 was in lieu of discipline. He did not recall how many instructors were present. He said he was given a copy of the notice of allegation but he did not tell OPR that the remedial training he received was in lieu of discipline. He was in the process of getting his credentials back since he had been de-deputized. [REDACTED] attempted to file a grievance through his union but was unsuccessful.

Joint Exhibit 5 Testimony during CO [REDACTED] case via Skype on October 27, 2015:

[REDACTED] (herein after "[REDACTED]") testified that he was employed by University of Tennessee, County Technical Assistance Service as the jail management consultant for about 8 years. Prior to that, he was employed with the Hamilton County Sheriff's in Chattanooga, Tennessee as the Chief of Corrections. [REDACTED] CV was moved into evidence, marked as Sheriff's Exhibit 12. [REDACTED] list of experience working in the corrections was marked and moved into evidence as Sheriff's Exhibit 13. [REDACTED] was certified as an expert witness in the use of force and report writing. [REDACTED] was retained by the Cook County State's Attorney's Office as an expert in this case. He's hourly rate was \$90.

In preparation, [REDACTED] reviewed all the documents/reports generated by all the officers involved in this matter, report generated by OPR, the use of force model adopted by the CCSO, Sheriff's orders in response to resistance use of force, two videos, and the power points on report writing and response to resistance adopted by the CCSO. With regard to the incident in the hallway, it was [REDACTED] opinion that [REDACTED] strike to the back of [REDACTED] head (2:46:44) while being pinned up against the door by both officers was not justified. [REDACTED] believed that at the time the strike was made, [REDACTED] was under control by both officers and the strike to the back of the head served no purpose. With regard to the second incident in the holding cell by the half wall, [REDACTED] opinion was that [REDACTED] initial strike to [REDACTED] side (2:56:01) to gain control of [REDACTED] arm was appropriate. [REDACTED] opinion was that [REDACTED] next strike (2:56:06) was not appropriate since both officers had control of [REDACTED] arms and [REDACTED] was bent over or pinned against a retaining wall. At 2:56:08, [REDACTED] observed [REDACTED] spit at the officers and then shortly after at 2:56:09, a series of four strikes were made by [REDACTED] [REDACTED] believed that these strikes were not necessary since the officers had regained control over [REDACTED] by that time. At 2:56:14, [REDACTED] raised his head and then [REDACTED] struck [REDACTED] in the head. [REDACTED] felt that this was inappropriate since there was no threat by [REDACTED] [REDACTED] was shown Sheriff's Exhibit 7 which was entitled "Integrated Use of Force Model." Applying this model, [REDACTED] felt that the initial strike by [REDACTED] was appropriate but once [REDACTED] and [REDACTED] had [REDACTED] pinned against a retaining wall and [REDACTED] being bent over to neutralize his spit, the multiple strike to the head was not necessary. [REDACTED] said [REDACTED] failed to document or report the incident that occurred in the hallway and all the force utilized inside the holding cell. Specifically, [REDACTED] said that [REDACTED] failed to document the incident in the hallway where [REDACTED] was moved from one side of the hallway up to the holding cell door, striking [REDACTED] to the back of the head, [REDACTED] throwing something outside of the cell prior to the door being shut, and failed to document [REDACTED] actions or his rationale for those actions. Inside the holding cell, [REDACTED] reported that he assisted in the restraining and movement and one strike to the side of [REDACTED] [REDACTED] did understand that one may not recall every strike but [REDACTED] failed to document that he threw multiple strikes. [REDACTED] further believed that [REDACTED] wrote in his report that he was involved in the handcuffing or movement of [REDACTED] out of the cell which was not true. [REDACTED] opined that [REDACTED] lost professionalism due to multiple strikes at [REDACTED] the position he put himself and other officers where the focus was shifted from inmate to him, and coming back into the cell after other officers pushed and tugged on him. [REDACTED] further opined that [REDACTED] report was not consistent with the Sheriff's Order because he had failed to document details of the events in the hallway and in the holding cell.

On cross-examination, [REDACTED] testified that he was asked to opine based on the information supplied by the state's attorney's office and did not interview anyone. [REDACTED] felt that [REDACTED] failed to articulate his rationale for what occurred during the incident in the narrative section of his use of force report. [REDACTED] did take into consideration of the first incident in the hallway when considering the second in the holding cell; that a holding cell was a confined space; that the floor was wet with flowing water; and that [REDACTED] was spitting. [REDACTED] did not see [REDACTED] throw elbow at [REDACTED] He saw [REDACTED] grabbing [REDACTED] arm to lift into an arm bar hold. [REDACTED] believed that when the officers first entered the holding cell, [REDACTED] turned his body and put his arms up in a self-protection when [REDACTED] grabbed him and pushed him to the wall.

[REDACTED] testified that he had asked for the training curriculum that the staff underwent previous to the incident and he was given the entire document that started with "Use of Force

Report Writing" (Sheriff's Exhibit 14). Applying the "Attack Management", striking [REDACTED] in the mouth would have been taking away [REDACTED] weapon delivery system. [REDACTED] agreed that [REDACTED] was authorized to use force to stop [REDACTED] from attacking him and other officers. He also agreed that [REDACTED] was justified in the use force to overcome [REDACTED] resistance. [REDACTED] did see a video of Page's interview following the incident but did not consider it when giving his opinions. He was able to review [REDACTED] medical record that indicated that [REDACTED] had minor injuries which was considered in his opinion. [REDACTED] said [REDACTED] used force when he swung his arm whether a contact was made or not. [REDACTED] had not seen the Desmedt model prior to being retained in this case.

Joint Exhibit 6 – Testimony during CO R. McClendon's case dated October 27, 2015:

[REDACTED] (herein after " [REDACTED] testified that he was a Chicago Police Officer assigned to the Education and Training Division at the Chicago Police Department where use of force and control tactics were taught. He had been with the CPD for 16 years and prior to that was with the CCSO for 5 years as a correctional officer. [REDACTED] attended the CCSO academy where he had learned the Integrated Use of Force System from John Desmedt. When he started with the CPD, he was trained and certified in the Protective Safety System under the Desmedt model. Additionally, [REDACTED] was certified by the Law Enforcement Standards Board as a use of force instructor. He was part of the Armament Systems and Procedures where he taught the use of force, baton, and handcuffing training. He had his own company, Blueline Training Corp where he taught the use of force model and control tactics.

The incident in the hallway, [REDACTED] was familiar with the area called receiving. He believed that since [REDACTED] was coming from protective custody, he would categorize [REDACTED] as a high-risk inmate. He believed that [REDACTED] was giving commands to [REDACTED] without success. [REDACTED] made a furtive movement when his hand moved toward his waistband which placed him at a higher risk category. When [REDACTED] tried to get something out of [REDACTED] hand, [REDACTED] became a moving resister. [REDACTED] attempted to control [REDACTED] arms and when [REDACTED] started moving, the officers used stabilization to restrict [REDACTED] movement. When [REDACTED] struck [REDACTED] it would be at low-impact pressure which would be an appropriate response to a moving resister. After his review of the video of the incident in the hallway, applying the Integrated Use of Force Model, [REDACTED] believed that everything [REDACTED] did was reasonable.

[REDACTED] explained that even prior to the officers coming into the holding cell, [REDACTED] was an "aggressively offensive without weapons" when he damaged and flooded the cell that created a hazardous situation for the officers which moved him upward into the assailant category. When [REDACTED] moved toward the half wall, it made it more difficult for the officers to gain control of him. [REDACTED] strike on [REDACTED] side was considered a low-impact pressure which would be a stunning technique. When [REDACTED] started flailing his arm (2:56:02) and attempted to elbow strike, he was considered an aggressively offensive without weapons and actions likely to cause physical injury. [REDACTED] then moved his arm backward and forward which would be considered a direct mechanical strike. At 2:56:08, when [REDACTED] spitted at [REDACTED] he became an aggressively offensive without weapons and cause physical injury. There were three elements of attack management: weapon, intent, and delivery system. The CCSO Academy taught that if you could defeat any of the three, the attack would end. The weapon in [REDACTED]

situation was his spitting (saliva) and coming out of [REDACTED] mouth was the delivery system (jaw). [REDACTED] said that striking [REDACTED] in the jaw would take out the delivery system and that was what [REDACTED] did when he struck [REDACTED] on the left side of his jaw. He did review [REDACTED] medical record and [REDACTED] did not complaint any injury to his left side of his jaw.

[REDACTED] opined that based on his review of the video, his knowledge of the use of force continuum as trained use of force instructor and as a person who was trained as a cadet in the use of force, [REDACTED] use of force was reasonable under the totality and circumstance. He opined that based on the model of CCSO, no actions taken by the [REDACTED] were excessive. [REDACTED] was familiar with the RedMan training which demonstrated that the reports prepared by officers in the training may not be accurate because of the stress level that they were placed in.

On cross-examination, [REDACTED] testified that he did not speak to [REDACTED] or any of the witnesses in this matter prior to testifying. He was compensated \$125 per hour. In the incident in the hallway, [REDACTED] raised his fist up at [REDACTED] which [REDACTED] called the "warning fist." This term was not used in the academy or taught to the officers. He believed that [REDACTED] was reasonable when he raised his fist up at [REDACTED] to get [REDACTED] to comply with his commands. He agreed that [REDACTED] was acting aggressively toward [REDACTED] but did not create a situation where [REDACTED] may respond with force to protect himself. He explained that officers were allowed to use persuasion, advice, and warning. When [REDACTED] struck [REDACTED] in the head, he considered it a low-impact pressure strike because the one stun allowed [REDACTED] to gain control of the situation. He agreed that it was inappropriate to strike [REDACTED] in the head since his head was not a weapon. If he had concluded that [REDACTED] strike to [REDACTED] head was a direct mechanical, it would have been under the probable excessive control. [REDACTED] stated that he did consider [REDACTED] injuries as a factor in determining whether a force was excessive, however, it must be determined based on the totality of the circumstances. [REDACTED] characterized [REDACTED] as a high-risk subject with aggressively offensive when he made furtive movement and blading his stance. He did not know if an officer can shut off water in the holding cells. [REDACTED] agreed that the longer the situation persisted, the more risk was to the officers. [REDACTED] believed that additional officers entered to gain control of [REDACTED] such as Respondent and [REDACTED] but no control was established. He believed that at 2:56:44, [REDACTED] attempted to head-butt [REDACTED]. He did not believe that [REDACTED] was trying to keep [REDACTED] away from [REDACTED] but that she was trying to keep them separated. [REDACTED] did not observe [REDACTED] or Respondent strike [REDACTED]. At 2:56:22, [REDACTED] agreed that Respondent was trying to direct [REDACTED] away from [REDACTED]. At 2:56:51, Respondent again had her hands on [REDACTED] by pulling his shirt. At 2:57:03, [REDACTED] reentered the holding cell when [REDACTED] stepped in between [REDACTED] and [REDACTED] to keep him away from [REDACTED]. Once [REDACTED] was taken down to the floor, he did not spit on any other officers. [REDACTED] said that officer's memory would be impacted when experiencing life-threatening encounter, however, this was not a life-threatening encounter. [REDACTED] agreed that [REDACTED] failed to properly document the use of force on [REDACTED]. He believed that [REDACTED] failed to document the force used in the hallway in that he struck [REDACTED] head. The use of force only mentioned one strike. [REDACTED] failed to mention that he struck [REDACTED] to stop him from spitting to OPR or in the use of force report.

On re-direct examination, [REDACTED] stated that based on the totality of the circumstances, he believed [REDACTED] was an assailant, low-level actions, aggressively offensive with no weapons.

GWENDOLYN ATKINS

Joint Exhibit 7 – Testimony during CO [REDACTED] case, September 24, 2015:

Respondent testified that she was assigned to RCDC as a sergeant working with [REDACTED]. On August 7, 2013, she observed interactions between [REDACTED] and [REDACTED] in the bullpen. She arrived at the bullpen same time as [REDACTED] and observed that [REDACTED] had flooded the bullpen. She told [REDACTED] to come out so that the officers could restrain him but he was not following her orders. She told [REDACTED] to put his hands behind his back, turn around so that they could cuff him. [REDACTED] was not listening and began spitting. She did not remember how many times [REDACTED] spit but she knew that [REDACTED] was spitting at [REDACTED] and [REDACTED] tried to restrain [REDACTED] by putting his hands behind his back but that did not work. They then used necessary force. At some point during the struggle, Respondent grabbed [REDACTED]. Respondent stated that she did this because [REDACTED] kept spitting and [REDACTED] kept striking [REDACTED]. At 2:56:08, [REDACTED] spit at Respondent. She grabbed [REDACTED] because it was escalating and [REDACTED] striking [REDACTED] was not helping the situation. [REDACTED] did not comply with her command initially. Respondent said that at 2:56:47, she pushed [REDACTED] because [REDACTED] spit again. At 2:56:52, Respondent grabbed [REDACTED] by his shirt and collar to pull him away so that she could gain control of the situation. At 2:57, [REDACTED] took [REDACTED] down to the floor. She observed [REDACTED] swing his arm or fist at [REDACTED] but could not remember how many times.

On cross-examination, Respondent testified that she was [REDACTED] supervisor. There were Lieutenants [REDACTED] and [REDACTED] on duty ranked higher than her. In accordance with the general orders, Respondent was required to prepare a report but she did not have access to the video. She did not immediately prepare a report but reported the incident to her supervisors. When she first entered the bullpen, she determined that [REDACTED] spit was targeting [REDACTED]. She pushed [REDACTED] away from [REDACTED] in belief that she was pushing the target away. She said at no time was [REDACTED] under control until he was taken down by [REDACTED]. In addition to spitting, [REDACTED] was physically and verbally resisting. As the highest ranking member in the bullpen, Respondent said she was responsible for make sure that the situation was under control. She believed that telling [REDACTED] to step away was to allow officers to gain control. When [REDACTED] stepped away, [REDACTED] was still "little resistant." Respondent said that she did report immediately to her supervisor regarding what had happened in the bullpen. She said that she thought that she prevented excessive use of force by moving [REDACTED] out of the area.

Stipulate that [REDACTED] would testify as following:

1. [REDACTED] would opine that Sergeant Gwendolyn Atkins had knowledge by direct observation and involvement of [REDACTED] throwing multiple strikes to the side of the head of detainee [REDACTED] and she failed to report it.
2. [REDACTED] would opine that even though Sergeant Atkins had direct knowledge of [REDACTED] throwing multiple strikes to the side of the head of detainee [REDACTED] she signed off on [REDACTED] reports and statements which did not accurately or completely document the force used by [REDACTED].
3. [REDACTED] would opine that Sergeant Atkins undermined the integrity of the Cook County Sheriff's Office and failed to take a leadership role and permitted Cook

County Sheriff's Office policies to be violated by submitting inaccurate reports as well as signing off on inaccurate reports submitted by her subordinate officers.

4. [REDACTED] would opine that Sergeant Atkins failed to recommend disciplinary action for [REDACTED] based upon the force she personally observed [REDACTED] use against detainee [REDACTED]
5. [REDACTED] would testify that these opinions are based upon his review of the surveillance video of the incident, the incident report submitted, the use of force report submitted, the policies and procedures of the Cook County Sheriff's Office that are at issue in this case, the OPR investigative report of OPR Investigator [REDACTED], and the Power Point presentation he reviewed that was offered at a Cook County Sheriff's Office training on use of force report writing.

The following witness testified for the Respondent:

RESPONDENT:

Respondent testified that she became a correctional sergeant in May of 2008 and had been a correctional officer since May of 1995. In June of 2013, she worked in receiving from 2 to 10 where they processed new inmates and inmates coming and going to court. On August 7, 2013 at around 2:45 pm, [REDACTED] told Respondent that [REDACTED] had spit on him. She then asked what did CO [REDACTED] do in response to the spitting. [REDACTED] told her that he had done nothing. She then told [REDACTED] to write a report. Respondent then received a phone call via radio saying that a detainee was flooding a cell. She did not learn the source of water that was flooding a cell until she went to the cell. She entered [REDACTED] cell along with [REDACTED] and [REDACTED]. When she got to the cell, she had to push a button to get the door open. She saw that the water was flowing out and asked [REDACTED] to come out. [REDACTED] did not come out and was staying behind a wall that was 3 to 4 feet high (a privacy wall). [REDACTED] and [REDACTED] went inside so that they could handcuff him. [REDACTED] said to [REDACTED] that "yes I spit on you and I will spit on you again." [REDACTED] started to spit again as both officers were trying to grab him. [REDACTED] started hitting [REDACTED] to gain control. [REDACTED] was not complying. When [REDACTED] was spitting and [REDACTED] was hitting, Respondent got spit on. She then walked inside the cell and tried to get [REDACTED] out of the area to gain control over the entire situation. She believed that [REDACTED] anger was focused on [REDACTED]. She physically touched [REDACTED] to move him away from [REDACTED]. [REDACTED] came into the cell shortly after and participated in moving [REDACTED] away from the scene. [REDACTED] walked away and then walked back in when [REDACTED] started spitting again. [REDACTED] told [REDACTED] to leave. She did not remember how many times [REDACTED] had spit at the officers. [REDACTED] was able to gain control of [REDACTED] eventually. Sheriff's Exhibit 4 was the use of force report written by [REDACTED] and it was signed off by the Respondent and Lieutenant [REDACTED]. On the first page, [REDACTED] checked off a box for indication that he punched the detainee. Respondent had concurred with this report. She had not viewed the video of the incident prior to approving this report. At the time of this incident, Respondent said that she was not allowed to view the video prior to reporting or signing a report. Prior to signing off this report, Respondent informed Lieutenants [REDACTED] and [REDACTED] that there was a use of force where she had to pull [REDACTED] away. Both lieutenants left to review the video and came back to tell her that it was a good use of force. Respondent said she did not file a complaint register because she was told that it was a

good use of force. Respondent said that there was a roll call the following day after the incident where both Lieutenants [REDACTED] and [REDACTED] told [REDACTED] that he had a good use of force. Respondent said that if either lieutenant told her that it was not a good use of force, she would have written [REDACTED] up.

Respondent's Exhibit 3 was a copy of a document from Lieutenant [REDACTED] dated August 10, 2013, stating that she was requesting OPR to review the video regarding this incident. Respondent said that no one discussed with her about the accuracy of her reports or the reports she signed off. Sheriff's Exhibit 2 was a copy of the data collection report written by the Respondent dated August 7, 2013 at 1815 hours, signed off by Lieutenant [REDACTED] at 2000 hours. Respondent said she did not write that [REDACTED] struck or punched [REDACTED] in the text because the use of force (Sheriff's Exhibit 4) had already stated that [REDACTED] struck [REDACTED]. Lieutenant [REDACTED] did not direct or suggest that Respondent change Respondent's Exhibit 3, in fact, she signed off on it. Respondent's Exhibit 2 was a copy of a document called the Command Channel Review. After she was brought up on charges, Respondent learned about this report. It stated that she should be suspended without pay for 30 days initially but altered to 120 days without pay. She was not informed of this or who had made the change on this document.

On cross-examination, Respondent testified that she had a duty to protect officers and detainees from harm. She agreed that all officers have duty to provide accurate, truthful information in their reporting. As a supervisor, she was held to a higher standard than a correctional officer. Prior to August of 2013, she received training in the proper use of force. She was aware that an officer was not allowed to use excessive force; or use force as punishment or in retaliation against a detainee. Respondent said she did not recall [REDACTED] throw multiple strikes to [REDACTED] head. She did feel that [REDACTED] was doing something wrong so she kept pushing and pulling him away from [REDACTED]. In fact, Respondent yelled at [REDACTED] to stop striking [REDACTED]. She was the commanding officer at the scene and believed [REDACTED] was insubordinate when he did not comply with her orders. She actually pulled and grabbed [REDACTED] by his shirt to yank him out. As soon as they walked in, [REDACTED] said that "Yes, I spit on you and I'll spit on you again." [REDACTED] began spitting and [REDACTED] began hitting him. While she was trying to get [REDACTED] away from [REDACTED] Respondent's focus was not on [REDACTED]. She agreed that [REDACTED] was complicating the situation by striking [REDACTED]. [REDACTED] did not assist in handcuffing [REDACTED] because he had been removed from the cell by Respondent. She believed that [REDACTED] used excessive force against [REDACTED]. No other officers struck [REDACTED]. Respondent said she told Lieutenants [REDACTED] and [REDACTED] that [REDACTED] was spitting, that [REDACTED] was hitting, that the cell was flooded, and that she had removed [REDACTED] from the cell. At that point, Respondent did not know if [REDACTED] had used excessive force and this was the reason, she went to her superiors. She filled out a witness statement because she had witnessed force being used. She reviewed both [REDACTED] and [REDACTED] reports and placed her signature on both stating that both reports were truthful accurate to the best of her knowledge.

Sheriff's Exhibit 2 was a copy of a witness statement report filed by the Respondent. In this report Respondent agreed that it did contain the fact that she had to pull [REDACTED] off [REDACTED] or that [REDACTED] struck [REDACTED]. Respondent explained that she did not write in her witness statement that [REDACTED] struck [REDACTED] because [REDACTED] use of force (Sheriff's Exhibit 4) stated that he used a closed hand strike or a punch in his report even though at the time she wrote her report, she had not reviewed [REDACTED]'s use of force report. As a part of her job, Respondent agreed that she had a duty to write up officers when she observed

wrongdoing. She did not need a lieutenant's permission to write up an officer for wrongdoing. Respondent said she felt that [REDACTED]'s use of force was not appropriate but she did not write up [REDACTED] because her supervisors told her that the use of force was appropriate. She could have discussed this matter with the captain or the chief but she did not do so. She was interviewed by OPR and gave a statement which was marked as Sheriff's Exhibit 1. Respondent agreed that she told [REDACTED] that the force used by [REDACTED] was appropriate and that it was not excessive. Today, as she testified, she believed that the force used by [REDACTED] was excessive. She did not tell [REDACTED] that she had discussed this with her lieutenants on the date of the incident; that she pulled [REDACTED] away from [REDACTED] or that she had to grab [REDACTED] by his shirt to get him away from [REDACTED].

On re-direct examination, Respondent testified that [REDACTED] striking [REDACTED] as [REDACTED] was spitting was not effective. She said she took a different course by removing [REDACTED] from the situation to gain control. She believed that [REDACTED] hitting did not stop [REDACTED] from spitting. She did not recall if any of [REDACTED] hitting was not in response to [REDACTED] spitting. Respondent said she had some concern with [REDACTED] use of force but she did not make a complaint referral because her lieutenants told her that it was a good use of force.

On re-cross examination, Respondent agreed that [REDACTED] hitting made [REDACTED] more combative and spit more. When interviewed by OPR, she did not mention pulling [REDACTED] away from [REDACTED] or having a conversation with her lieutenants about whether it was a good use of force.

Findings/Conclusion of the Law:

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits and stipulation that were admitted, the Board finds that the Respondent violated Sheriff's order 11.2.1.0 when she witnessed [REDACTED] use an excessive force on [REDACTED] but failed to submit an accurate Witness Statement. The witness statement that the Respondent submitted was inadequate and simply not true. There was no mention of [REDACTED] striking [REDACTED] at all, not even one punch or strike. When OPR interviewed her and asked about the incident, Respondent was not truthful. She only told Investigator [REDACTED] about [REDACTED] striking [REDACTED] only after [REDACTED] asked her about it shortly after her rendition of the incident. Even there, she did not say that [REDACTED] struck [REDACTED] multiple times only that she saw [REDACTED] strike [REDACTED] to gain control. She did not say that she had to push and pull [REDACTED] from the incident to prevent any further escalation. Respondent violated General Order 24.9.1.0 when she failed to report and document the incident in the bullpen. Furthermore, Respondent violated Sheriff's Order 11.2.20.0 and General Order 9.21 when she, as a supervisor, signed off on [REDACTED] Response to Resistance/Use of Force Form knowing that the report failed to document the incident accurately; failed to discipline [REDACTED] for excessive use of force; and failed to require [REDACTED] to follow all appropriate sheriff's orders and general orders. And finally, as a result of violating the above Sheriff's Orders and General Order, Respondent violated Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B.

Order:

Wherefore, based on the foregoing, it is hereby ordered that the Respondent is suspended from the Cook County Sheriff's Office for 60 days from the date of December 23, 2014.

Gwendolyn Atkins #1798



JAMES P. NALLY, Chairman



BYRON BRAZIER, Vice-Chairman



JOHN J. DALICANDRO, Secretary



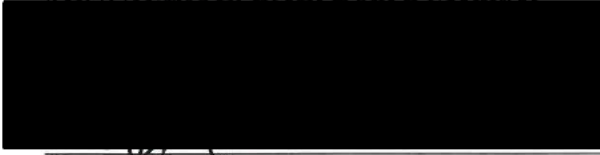
VINCENT T. WINTERS, Board Member



KIM R. WIDUP, Board Member



JENNIFER E. BAE, Board Member



PAT BRADY, Board Member



GRAY MATEO-HARRIS, Board Member

Dated: _____

September 15, 2016

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SHERIFF OF COOK COUNTY

vs.

Docket No. 1798

GWENDOLYN D. ATKINS,
Correctional Sergeant,
Employee # [REDACTED]
Star #1110.

I write in dissent of the decision issued by the Board regarding Respondent Gwendolyn D. Atkins ("Respondent") as to the discipline issued. The Sheriff, in its initial complaint, requested that Respondent receive a suspension of 120 days but the Board issued only a suspension of 60 days. This suspension was issued after finding, by a preponderance of the evidence, that the Respondent violated certain General Orders of the Cook County Sheriff's Office (CCSO) and Merit Board Regulations, as alleged in the initial complaint and confirmed by the final decision in the matter. The Board reached this determination based on the evidence presented, the assessment of the credibility of the witnesses, and the weight given to the evidence in the record.

I agree with the finding in this matter and dissent only as to the discipline issued. Given Respondent's lack of candor throughout the investigation process and hearing, and given her failure to report and document the excessive force she witnessed, particularly in light of her supervisory status, I recommend a suspension of 90 days.

Gray I. Mateo-Harris, Board Member

09/02/16

Date _____